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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,531	11/26/2003	Hubert Jansen	102-547 CIP/CON (P-4140/1)	8662
32752	7590	12/14/2004	EXAMINER	
DAVID W. HIGHET VP & CHIEF IP COUNSEL BECTION DICKINSON AND COMPANY 1 BECTON DRIVE MC 110 FRANKLIN LAKES, NJ 07417-1880			ELOSHWAY, NIKI MARINA	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,531

Applicant(s)

JANSEN ET AL.

Examiner

Niki M. Elishway

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24, 25, 27 and 31 is/are rejected.
- 7) ☒ Claim(s) 26, 28-30, 32, 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Introduction

1. The terminal disclaimer filed on September 23, 2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent Number 6,681,946 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 24, 25, 27 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (U.S. 4,412,623) in view of Ida et al. (U.S. 6,042,850). Schmidt teaches a resealable transfer set comprising a general tubular elastomeric fluid transfer valve member 4, and a piercing member 3. Schmidt does not disclose that the slit is biased to a closed position. Ida et al. teaches that it is known to provide a valve member with an opening which is biased to a closed position (see col. 4 line 32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the transfer set of Schmidt with the opening 41 being biased to a closed position, as taught by Ida et al., in order to aid in preventing unintentional escape of the contents.

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Allowable Subject Matter

4. Claims 26, 28-30, 32 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed September 23, 2004 have been fully considered but they are not persuasive. Applicant argues that the Schmidt teat hole vents the container and therefore cannot be modified by the self sealing hole of Ida et al. The examiner disagrees with this position. It is not necessary for the hole of the Schmidt teat to vent the bottle. It is well known in the art that vents can be placed in the container sidewalls or bottom wall to aid dispensing of the contents. These vents are normally closed and open in response to vacuum pressure built up in the bottle. For this reason, it is possible to modify the Schmidt closure without changing the principle operation of the closure.

Conclusion

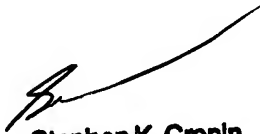
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

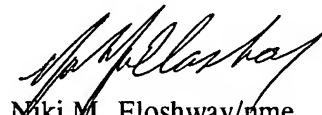
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7. In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly to (703)872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (571) 272-4538. The examiner is in the office on Thursdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Receptionist at (703) 308-1148.



Stephen K. Cronin
Primary Examiner



Niki M. Eloshway/nme
Patent Examiner
December 9, 2004